

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Delivery Capital                    )  
Recovery Rider Contained in the Tariffs            ) Case No. 15-1739-EL-RDR  
of Ohio Edison Company, The Cleveland            )  
Electric Illuminating Company and The            )  
Toledo Edison Company.                                )

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**MOTION FOR PROTECTIVE ORDER  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission ("PUCO") for a protective order regarding information asserted to be confidential by Ohio Edison Company, the Cleveland Electric Illuminating Company and The Toledo Edison Company ("FirstEnergy" or "Utility").<sup>1</sup> As part of discovery in this proceeding, FirstEnergy provided certain information to OCC, that the Utility has marked as confidential. The Utility asserts that this information is proprietary and confidential, and constitutes trade secrets under Ohio law, and that non-disclosure is not inconsistent with the purposes of R.C. Title 49.

Based on the alleged confidential information, OCC drafted discovery requests to the Utility, which became OCC's 1st set of discovery. That discovery is now the subject of a motion to compel. Under the PUCO's rules, a motion to compel must be accompanied with a copy of the discovery requests that the motion concerns. The motion concerns information alleged to be confidential.

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<sup>1</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-24(D).

OCC hereby requests that the Commission issue such order as is necessary to protect FirstEnergy's Discovery responses that were provided to OCC, Set One. The discovery responses that the Utility provided contain information that FirstEnergy deems confidential. OCC is filing the Discovery Responses under seal, as part of its Motion to compel. OCC is also publicly filing a redacted version, subject to OCC's rights under the provisions of Ohio law.

By filing the instant motion, OCC does not concede that the information constitutes trade secrets or is confidential. The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

Jodi Bair, Counsel of Record  
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**MEMORANDUM IN SUPPORT**

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Contemporaneously with the filing of this Motion, OCC is filing a Motion to Compel with an attachment that contains information gained during discovery that the Utility asserts is confidential. Accordingly, OCC is filing FirstEnergy's responses to OCC's Discovery Set One served on OCC on June 24, 2016 under seal, pursuant to Ohio Adm. Code 4901-1-24(D)(2). OCC is also filing a version of OCC's Discovery Set One for viewing by the public, with the purportedly confidential information redacted pursuant to Ohio Adm. Code 4901-1-24(D)(1).

Without conceding that the allegedly confidential information meets the standard for trade secrets and deserves protection from public revelation under R.C. 1333.61(D), OCC files the instant Motion to protect the information. Accordingly, OCC requests that the PUCO issue such order as is necessary to protect FirstEnergy's responses to OCC's Discovery Set One as filed under seal. Such information was designated as confidential by FirstEnergy. OCC, nonetheless, retains the right to initiate the process for the PUCO to decide if confidential treatment is appropriate.

OCC understands that FirstEnergy considers the redacted information to be confidential and deserving of the status of trade secrets as defined in R.C. 1333.61(D).

Such assertions would be based on claims by the Utility that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Under such assertions, confidential treatment of the unredacted FirstEnergy responses to OCC's Discovery Set One would be appropriate.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion for Protective Order should be granted.

Respectfully submitted,

BRUCE J. WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

Jodi Bair, Counsel of Record  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Protective Order by the Office of the Ohio Consumers' Counsel has been served electronically upon those persons listed below this 20<sup>th</sup> day of July, 2016.

/s/ Jodi Bair  
Jodi Bair  
Assistant Consumers' Counsel

### **SERVICE LIST**

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Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Bair, Jodi Ms.